## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHERN DIVISION

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| ) | No. 12-3222-CV-S-DW |
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## ORDER

Pending before the Court is Magistrate Judge James C. England's Report and Recommendation (Doc. 8). The Petitioner Jacob Tremain Covington ("Covington") filed Exceptions to the Report and Recommendation. Doc. 14. After an independent review of the record, the applicable law and the parties' arguments, the Court agrees that the Petitioner has failed to exhaust his administrative remedies. See Franklin v. Castillo, Case No. 10-3188-CV-S-ODS, Doc. 17, p. 4 (recommending that petitioner be denied leave to proceed in forma pauperis because he "should have to exhaust administrative remedies under the rule of Willis [v. Ciccone, 506 F.2d 1011 (8th Cir. 1974)] and through applicable BOP regulations"), id. at Doc. 28 (adopting report and recommendation); aff'd Franklin v. Castillo, Case No. 12-1923 (8th Cir. Sept. 12, 2012). Consequently, it is hereby ORDERED that:

- (1) the Court ADOPTS the Magistrate's Report and Recommendation (Doc. 8); and
- (2) the Magistrate's Report and Recommendation shall be attached to and made a part of this Order; and

| (3) Petitioner Covington's Request to Proceed I  | n Forma Pauperis (Doc. 2) and Petition for                 |
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| Writ of Habeas Corpus (Doc. 1) are DENIED WITHOU | UT PREJUDICE.  |
| IT IS SO ORDERED.                                |  |
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| Date: January 2, 2013                            | /s/ Dean Whipple Dean Whipple United States District Judge |